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12 Counsel for Plaintiff Cyber Switching

13 United States District Court
14 Northern District of California

15 Cyber Switching Patents, LLC d/b/a Cyber
16 Switching

17 Case No. tbd

18 Plaintiff,

19 **Complaint for Patent Infringement**

20 vs.
21 Eaton, Inc.

22 **Jury Trial Demanded**

23 Defendant

24 MOUNT, SPELMAN & FINGERMAN, P.C.
25 RIVERPARK TOWER, SUITE 1650
26 333 WEST SAN CARLOS STREET
27 SAN JOSE, CALIFORNIA 95110-2740
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COMPLAINT

Plaintiff Cyber Switching Patents, LLC d/b/a Cyber Switching (“Cyber Switching”) files its Complaint against Defendant showing this Court as follows:

Nature of the Action

1. This is an action for patent infringement, arising out of Defendant's infringement of U.S. Pat. No. 7,550,870 issued on June 23rd, 2009, and entitled *Method and Apparatus for Remote Power Management and Monitoring* (the “‘870 Patent”), U.S. Pat. No. 7,630,186 issued on December 8th, 2009, and entitled *Current Protection Apparatus and Method* (the “‘186 Patent”), and U.S. Pat. No. 7,672,104 entitled *Current Protection Apparatus and Method* (the “‘104” Patent). Copies of the ‘870 Patent, ‘186 Patent, and ‘104 Patent are attached hereto as Exhibits A, B, and C respectively. Collectively the ‘870 Patent, ‘186 Patent, and ‘104 Patent are referred to as the “Patents in suit”.

The Parties

2. Plaintiff is a Limited Liability Company, organized and existing under the laws of the State of California, with its principal place of business in San Jose, California.
3. Upon information and belief, Defendant Eaton, Inc. is a corporation organized and existing under the laws of the State of Ohio. Eaton's registered agent for service of process is CT CORPORATION SYSTEM, 1300 EAST NINTH STREET, CLEVELAND, OH 44114. Upon information and belief Eaton does business in the State of California by, among other things, offering for sale and selling the Eaton Products, as defined below, within the State of California, and within this district.

Jurisdiction and Venue

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, (federal question), and 1338 (patents).
5. This Court has personal jurisdiction over the Defendants by virtue of these companies'

1 developing, offering for sale and selling their respective "Products", defined below, within the
 2 State of California and, upon information and belief, by these companies deriving significant
 3 revenue from such sales.

4 6. Venue is proper in this Court pursuant to 28 U.S.C. §1400 (Patents).

5 **Intradistrict Assignment**

6 7. This case is appropriate for district-wide assignment under Civil Local Rule 3-2(c). Assignment
 8 to the San Jose Division is appropriate because a substantial part of the events that give rise to the
 9 claims asserted in this complaint occurred in Santa Clara County.

10 **Operative Facts**

11 **Charles H. Reynolds and Cyber Switching: First to Offer Intelligent Power Distribution
 12 Units to Data Centers**

13 8. Charles H. Reynolds, the founder and owner of Cyber Switching---and inventor of the Patents in
 14 Suit--began pioneering power distribution technologies into data centers¹ as early as 1994. Over
 15 time he intimately understood the evolving trends of data center operations. Data centers rose to
 16 prominence during the dot com boom of the 1990's. Companies needed fast network connectivity
 17 and nonstop operation to deploy systems and establish an Internet presence. New technologies
 18 and practices were designed to handle the operational requirements of such large-scale operations.
 19
 20 9. Data center computing racks are fed power through power distribution units ("PDU"). PDU's are
 21 similar to, but much more sophisticated than, the retail "power strip" that one commonly uses at
 22 their desk. The most basic PDU provides standard electrical power to computing devices, but has
 23 no monitoring or remote access capabilities. For large data centers this basic functionality is
 24 insufficient, as they are inefficient, unable to monitor power, and have no ability to report or

25
 26 ¹ A data center is a facility used to house computer systems and associated components, such as
 27 telecommunications equipment, storage systems, routers, and switches. It generally includes
 28 redundant or backup power supplies, redundant data communications connections, environmental
 controls (e.g., air conditioning, fire suppression) and various security devices. Large data centers are
 industrial scale operations using as much electricity as a small town.

1 resolve power problems, if discovered.

2 10. As data centers grew in size, so did their energy costs and overhead cost of administration. Based
3 on these fundamental ideas of increasing data center energy efficiency and lower costs of
4 management through remote administration, Cybererswitching was formed. About this time Mr.
5 Reynolds developed and sold the first Intelligent PDU (“iPDU”) to address these issues. Cyber
6 Switching iPDU’s were marked with the patents and pending patent application numbers.

7 11. Smart PDUs, also known as intelligent PDUs (“iPDUs”), address these deficiencies. For example,
8 intelligent PDUs (1) identify high power consuming equipment, (2) issue alarms when power
9 overloading occurs or may occur, (3) identify erratic power consumption, and (4) monitor power
10 usage against existing capacity. Cyber Switching began selling these multiple lines of iPDU
11 related products including the ePower family, Dualcom PLUS intelligent Power Management
12 systems, CS Series, E Series, Galaxy Series, Enterprise Management Console Software, PM8
13 Series, EFX Series Power Management Module, M series, and the PS Series.

14 12. iPDU’s are able to add this additional value over standard PDUs by adding a number of features.
15 iPDU’s typically include a built in display for local reporting, as well as web connectivity for
16 remote status reporting. iPDU’s also include remote monitoring and management of individual
17 power outlets, and devices, via standard network connectivity. Many iPDU’s also include the
18 ability to trigger alerts using standard email protocols or via Simple Network Management
19 Protocol Management Information Bases (“SNMP MIBs”). Many iPDU’s also allow for active
20 control of electronics, for example, rebooting a computing server remotely. The iPDU is an
21 essential element which gives Information Technology (“IT”) Administrators the ability to adjust
22 and monitor power demands from offsite locations. Below, are pictures of Cyber Switching
23 products.

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13. As the data center power distribution market matured, large power companies, and smaller
14. competitors, entered the market, directly competing with Cyber Switching, and practicing its
15. patented inventions.

The Patents in Suit

16. Cyber Switching is the owner by assignment of all rights, title, and interest in the Patents-in-Suit.
17. The '870 Patent describes a novel invention relating to a method and apparatus for intelligent
18. power supply devices and/or methods that can be used for power supply control and/or
19. monitoring in various information and/or network appliances.
20. The '186 Patent and the '104 Patent generally describe inventions relating generally to a current
21. protection apparatus and more particularly to a current protection apparatus including a
22. programmable characteristic and current protection method.

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Causes of Action

Eaton

17. Cyber Switching incorporates by reference as if fully set forth herein the allegations contained above.

18. Defendant Eaton, within the United States, manufactures, uses, offers for sale, or sells iPDU's, as defined by the Patents in Suit *supra*, including but not limited to the

- a. Enclosure Power Distribution Units (ePDU), Managed ePDUs (the "eM" family), Metered input (monitored) epdus including, (the "EM", "PW", "VPC", "T", and "V" families and ePDU G3 Platform, Advanced monitored ePDUs (the "eAM" and "VPC" families), Switched ePDUs (the "PW", "IPV" and "IPC" families), Intelligent Power Control including, but not limited to IPC3401, IPC3401-NET, IPC3402, IPC3402-NET, IPC3402-A2, IPC3402-A2-NET, IPC3402-2756, and IPC3402-2930, IPC3601, IPC3602, IPC3601-F3-3316, IPC3400-A1, IPC3400-A1-NET, IPC3400-AB, IPC3400-AB-NET (the "IPC" family), Floor based power distribution unit ("PDU") alone, and in combination with
- b. associated hardware such as but not limited to power management meters, Connectivity Devices such as, but not limited to Power Xpert Gateway PDP Card, Expansion Chassis, and ePDU Environmental Monitoring Probe, and in combination with
- c. the associated proprietary software such as Eaton's Intelligent Power Manager ("IPM") software, or Power Xpert Software, and in combination with
- d. other commercially available software, such as, but not limited to, email, web browsers, and SNMP MIBs, infringe all claims of the Patents in Suit directly or indirectly. A more detailed list of Eaton accused products is attached as Exhibit D.

Count One –

Eaton Infringement of the '870 Patent

19. Cyber Switching incorporates by reference as if fully set forth herein the allegations contained above.
20. By reason of some or all of the foregoing, Defendant Eaton has directly infringed all claims of the '870 Patent. Defendant Eaton's direct infringement has been willful since at least the first shipment of the Cyber Switching products.
21. By reason of some or all of the foregoing, Defendant Eaton has indirectly infringed all claims of the '870 Patent by inducing infringement and contributing to infringement. Defendant had knowledge of the '870 Patent since at least the first shipment of Cyber Switching products and intended to induce infringement of the Patent in others. One or more of Defendant's Products are nonstaple items and have no substantial non-infringing uses. Defendant Eaton's indirect infringement has been willful since at least the first shipment of the Cyber Switching products.
22. Cyber Switching has suffered damages as the direct and proximate result of Defendant Eaton's infringement of the '870 Patent.

Count Two

Eaton's Infringement of the '186 Patent

23. Cyber Switching incorporates by reference as if fully set forth herein the allegations contained above.
24. By reason of some or all of the foregoing, Defendant Eaton has directly infringed all claims of the '186 Patent. Defendant Eaton's direct infringement has been willful since at least the first shipment of the Cyber Switching products.
25. By reason of some or all of the foregoing, Defendant Eaton has indirectly infringed all claims of the '186 Patent by inducing infringement and contributing to infringement. Defendant had knowledge of the '186 Patent since at least the first shipment of Cyber Switching products and

1 intended to induce infringement of the Patent in others. One or more of Defendant's Products are
2 nonstaple items and have no substantial non-infringing uses. Defendant Eaton's indirect
3 infringement has been willful since at least the first shipment of the Cyber Switching products.

4 26. Cyber Switching has suffered damages as the direct and proximate result of Defendant Eaton's
5 infringement of the '186 Patent.
6

7 **Count Three**

8 **Eaton's Infringement of the '104 Patent**

9 27. Cyber Switching incorporates by reference as if fully set forth herein the allegations contained
10 above.
11 28. By reason of some or all of the foregoing, Defendant Eaton has directly infringed all claims of the
12 '104 Patent. Defendant Eaton's direct infringement has been willful since at least the first
13 shipment of the Cyber Switching products.

14 29. By reason of some or all of the foregoing, Defendant Eaton has indirectly infringed all claims of
15 the '104 Patent by inducing infringement and contributing to infringement. Defendant had
16 knowledge of the '104 Patent since at least the first shipment of Cyber Switching products and
17 intended to induce infringement of the Patent in others. One or more of Defendant's Products are
18 nonstaple items and have no substantial non-infringing uses. Defendant Eaton's indirect
19 infringement has been willful since at least the first shipment of the Cyber Switching products.

20 30. Cyber Switching has suffered damages as the direct and proximate result of Defendant Eaton's
21 infringement of the '104 Patent.
22

23 WHEREFORE, Cyber Switching prays that this Court:
24

25 (1) Enter judgment in favor of Cyber Switching and against Defendant for infringement,
26 including willful infringement as appropriate, of the '870 Patent, as set forth above.
27 (2) Enter judgment in favor of Cyber Switching and against Defendant for infringement,
28 including willful infringement as appropriate, of the '186 Patent, as set forth above.

1 (3) Enter judgment in favor of Cyber Switching and against Defendant for infringement,
2 including willful infringement as appropriate, of the '104 Patent, as set forth above.
3 (4) Award damages to Cyber Switching in an amount to be proven at trial for Defendant's
4 infringement, pursuant to 35 U.S.C. §284.
5 (5) Declare this to be an exceptional case pursuant to 35 U.S.C. §285 and award Cyber Switching
6 its attorney's fees in this action.
7 (6) Award the costs of this action to Cyber Switching.
8 (7) Try this case before a jury; and
9 (8) Allow Cyber Switching to have such other and further relief as the Court Deems just and
10 proper.

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12 Date: June 10, 2014
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14

/s/ Kevin M. Pasquinelli, Esq.

Mount, Spelman & Fingerman, P.C.
Counsel for Plaintiff Cyber Switching

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